

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
W & Old Padonia Road * ZONING COMMISSIONER
150' W of the c/l of York Road * OF BALTIMORE COUNTY
(18 Old Padonia Road)
8th Election District
3rd Councilmanic District * Case No. 94-4-A
May C. Brewer
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing for the subject property, known as 18 Old Padonia Road, located in the Timonium area of Baltimore County. The Petition was filed by the owner of the subject property, May C. Brewer. The Petitioner seeks approval of amendments to the restrictions and site plan previously approved in Case Nos. 90-205-A and 90-14-A to permit the variances granted in those cases to apply to the proposed Lessee. Further, the Petitioner seeks validation of the variances granted in said cases and to permit additional parking in the front yard of the subject property, as shown on the site plan submitted and identified herein as Petitioner's Exhibit 1.

Appearing at the requisite hearing held in this case was Walter L. Brewer, Jr., son of May C. Brewer, property owner. Also appearing was Nicholas Comadari, a zoning consultant, and Eugene F. Raphe, the Registered Property Line Surveyor who prepared the site plan marked as Petitioner's Exhibit 1. There were no Protestants present.

Testimony and evidence presented revealed that the subject property, known as 18 Old Padonia Road, consists of a gross area of 0.45 acres, more or less, zoned M.L., and is improved with a frame dwelling on which has been added an addition, and a detached garage. Said property is a triangular shaped parcel near York Road, and is surrounded mainly by com-

mercial uses. Particularly, an automobile service garage is located immediately adjacent to the site, as is the C & P Telephone Company building. Further, the Lemmon-Mitchell-Wiedefeld Funeral Home is located across the street. Although several small residences remain on Old Padonia Road, the area has largely been converted into office and commercial uses. It appears that the existing improvements on the subject site were used at one time as a residence. The original building is two stories in height, however, a one story addition has been added. Further, to the rear of the property sits a garage and a crusher run base serves as a parking lot in the front of the principal structure and a macadam paved lot exists between the garage and the rear of the main building.

A review of the zoning history of the subject property is appropriate. The property was originally considered within Case No. 90-14-A in which a public hearing was held on July 26, 1989. At that time, the Petitioner sought variance relief from Section 255.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) as it related to side and front yard setback requirements. The relief was granted by Order issued August 28, 1989 by then Zoning Commissioner, J. Robert Haines. Commissioner Haines noted that the property had been used as a residence but was then under the ownership of the 18 Old Padonia Road Partnership. That Partnership had entered into a tentative lease with the Baltimore Rigging Company, Inc. to occupy the building. Thus, the Petitioners in that case proposed converting the existing structure to a Class A office building. Further, it is noted that no additional construction was proposed for the site but that the requested setbacks were necessary to legitimize the locations of the existing buildings. As noted above, Commissioner Haines granted the Petition and imposed a number of restrictions. These restrictions are noted on the

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site plan submitted in the instant case. Of particular note are restrictions which limited the relief granted to the subject Petitioner, limited expansion of the existing buildings, and required certain landscaping.

Shortly thereafter, the same Petitioners came again before Commissioner Haines under a new Petition for Variance in Case No. 90-205-A. Therein, variance relief was requested from Section 409.4A of the B.C.Z.R. to permit a driveway width of 10 feet in lieu of the required 20 feet. It is to be noted that vehicular access to the site is by way of an asphalt drive on the east side of the subject property. This driveway merges into, and cannot be distinguished from, the rear parking lot which serves the automobile service garage located on the adjacent property. After the required public hearing in that case, Commissioner Haines authored an Order dated January 4, 1990 in which he granted the variances requested. Within his Order, Commissioner Haines noted his prior decision and again imposed several restrictions. These restrictions are also noted on the site plan submitted in the instant case and again limited the variance relief granted to only the Petitioners.

Testimony presented in the case before me was that the Baltimore Rigging Company, Inc. never occupied the site as anticipated. Apparently, a final lease agreement for their occupancy could not be reached. Ultimately, the property was acquired by the Petitioner, May C. Brewer, at a public auction in November, 1991. The Petitioners note that they propose absolutely no changes to the existing structure. Moreover, due to Commissioner Haines' decision, they correctly observed that they are unable to occupy or lease the building as a Class A office building and request that restriction be removed within the Petition filed herein. Further, testimony was presented that a tenant has been found for the building. This

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tenant, which was represented to be known as Health Awareness Consultants, Inc., wishes to occupy the building as an office building.

In reviewing the testimony and evidence presented, I am in agreement with the spirit and intent of Commissioner Haines' prior Orders and believe that a granting of the special hearing before me is appropriate. In addition to reviewing the photographs and site plan submitted, I conducted a site visit to the property and am familiar with this locale. There is no doubt that Old Padonia Road was, at one time, located within a sleepy residential neighborhood. However, with increased development along the York Road corridor, the properties on this narrow street have almost all been converted to commercial use. In my view, utilization of existing improvements on this site as a Class A office building is entirely appropriate. Further, I do not believe that the identity of the tenant is significant for so long as the activity on-site is entirely housed in the interior of the buildings thereon. That is, I will not limit utilization of the structure as a Class A office building to a particular identifiable tenant as did Commissioner Haines. Rather, the relief herein will be granted for any tenant for so long as exterior improvements are not made to any of the structures on site and that the use of the yard does not overburden the property and constitute a nuisance to the neighbors.

Moreover, it is clear that the variances granted by Commissioner Haines in the original case (90-14-A) are entirely appropriate. Those variances relate to setbacks for the existing structures and were necessary to legitimize existing conditions on the property. The validity of the variance relief in that case is hereby verified.

As to the variance granted in the more recent case (90-205-A), I am likewise persuaded that same should be reaffirmed. However, I will

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require the driveway to maintain a minimum 18-foot width in order to assure proper access to the property. The testimony and evidence presented at the instant hearing was that a driveway width of 18 feet would be sufficient to allow proper vehicular access to the site, while retaining landscaping and certain of the mature trees existing on the site.

Notwithstanding my approval of the variances granted, certain comments are in order relating to Zoning Advisory Committee comments which were offered about this case. First, the Department of Public Works suggests a widening of Old Padonia Road along the frontage of this site and the installation of concrete curb and gutter in front of the property. In this regard, my site inspection was particularly relevant. Although many of the dwellings on Old Padonia Road have been converted to commercial uses, Old Padonia Road itself has remained unchanged. Although, there are admittedly a few locations where curb and gutter have been installed, the overwhelming majority of the length of Old Padonia Road has remained without curb and gutter. The remaining residential dwellings have not been improved in this respect nor have many of the structures which have been converted to commercial use. In my view, requiring the property owner to make these improvements is unnecessary at this time and would only cause undue expense and inconvenience. Ultimately, Old Padonia Road may well need improvements. However, the Petitioner in this case proposes no exterior construction on the site. They only seek to allow a commercial occupancy of the property consistent with the prior Orders. Thus, I will not require the Petitioner to install curb and gutter and improve the road frontage at this time. However, in the event any exterior improvements are made to this site, curb and gutter improvements shall be made, absent another public hearing before the Zoning Commissioner and Order which

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provides otherwise. That is, in the event the Petitioner wishes to in any way change the exterior nature of the improvements on site, or make additional improvements, compliance with the Department of Public Works' standards will be required, absent an Order providing a waiver of same by this Office.

Also, both the Department of Public Works and the Office of Planning and Zoning noted the possible need for additional landscaping on this property. In fact, Commissioner Haines' Order in Case No. 90-14-A required the Petitioner submit and obtain approval of a landscape for this property. Apparently, that was never done. As is the case with many existing/converted sites in Baltimore County, strict compliance with the Landscape Manual is difficult. That is, unlike new construction, certain site constraints no doubt exist which make strict compliance impossible. Further, it is noted that at least three major and mature trees exist on this site which should be retained. Nevertheless, the property owner obtained prior relief and did not comply with the restrictions imposed. Although the Petitioner in that case was a different identity than the Petitioner before me, the property is the same. Thus, I will require this Petitioner to submit and obtain approval of a landscape plan from the County's Landscape Architect. The plan need not comply with the strict requirements of the Landscape Manual, however, should be consistent with the spirit thereof. Further, recognition must be given of the existing mature trees on site which should be preserved and the site constraints peculiar to this property. I trust that the County Landscape Architect and the Petitioner will be able to reach a workable solution consistent with the comments herein in this regard.

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Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of August, 1993 that the Petition for Special Hearing seeking approval of amendments to the restrictions and site plan previously approved in Case Nos. 90-205-A and 90-14-A to permit the variances granted therein to apply to the proposed Lessee, the validation of the variances granted in said cases, and to permit additional parking in the front yard of the subject property, as more particularly shown on the site plan identified herein as Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their occupancy permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The driveway width shall be maintained at 18 feet.
- 3) The existing and mature trees shall be preserved.
- 4) No exterior improvements or additions shall be made to the structures on the property. In the event such changes are contemplated, the Petitioner shall improve the frontage of the property with concrete curb and gutter, pursuant to the then existing standards of the Department of Public Works.
- 5) The Petitioner shall submit a landscape plan for review and approval by the County Landscape Architect. Said plan shall be consistent with the comments contained herein and a copy of the approved plan shall be submitted to the Zoning Administration Office for inclusion in the case file.
- 6) When applying for an occupancy permit, the site plan and landscaping plan filed must reference this

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case and set forth and address the restrictions of this Order.

LES:bja

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-4386
August 12, 1993

Ms. May C. Brewer
3 Roosevelt Avenue
Timonium, Maryland 21093

RE: PETITION FOR SPECIAL HEARING
N/S Old Padonia Road, 350' W of the c/l of York Road
(18 Old Padonia Road)
8th Election District - 3rd Councilmanic District
May C. Brewer - Petitioner
Case No. 94-4-A

Dear Ms. Brewer:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: People's Counsel

File

Mr. Nicholas Comandari
1100 Lakeside Avenue, Baltimore, Md. 21213



Petition for Special Hearing to the Zoning Commissioner of Baltimore County

for the property located at 18 Old Padonia Road
which is presently zoned M.L.

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve amendments to the restrictions and site plans in Case #90-205-A and Case #90-14-A to allow the variances granted in these cases to apply to the current petitioner and therefore still apply to the subject property and to allow additional parking in the front yard as shown on the submitted site plan.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Purchaser/Lessee

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner

(Type or Print Name)

Signature

Address

City

State

Zipcode

Who do I certify and affirm, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this Petition?

Legal Owner(s)

(Type or Print Name)

Signature

Address

City

State

Zipcode

Name

Address

City

State

Zipcode

Phone No.

Phone No.

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BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and Development Management
DATE: July 19, 1993

FROM: Robert W. Bowling, P.E., Senior Engineer
Development Plan Review

RE: Zoning Advisory Committee Meeting
for July 18, 1993
Item No. 5

The Development Plan Review Division has reviewed the subject zoning item. This site requires construction of road widening and concrete curb and gutter with a single commercial entrance per Standard Plate R-32.

Conditions #4, 5 and 6 of Case 390-14-A have not been met. A landscape plan should be approved prior to approval of amendments.

BWB:s

SHA
Maryland Department of Transportation
State Highway Administration

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

Ms. Helene Kehring
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: BALTO CO.
Item No: + 5 (MJK)

Dear Ms. Kehring:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small
for John Contestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: July 19, 1993

SUBJECT: 18 Old Padonia Road

INFORMATION:

Item Number: 5

Petitioner: Brewer Property

Property Size:

Zoning: M.L.

Requested Action:

Hearing Date:

SUMMARY OF RECOMMENDATIONS:

Staff supports the applicant's request subject to the following conditions:

- Retain the existing trees.
- Site must comply with Landscape Manual as much as possible, including screening of parking from adjacent residential use and from public right-of-way.
- The entrance drive should be reduced to a 20' width to allow a 4' wide planted buffer strip between proposed drive and adjacent auto service lot.

Prepared by: *Jeffrey M. Lutz*

Division Chief: *Carly L. Kenna*

PK/JL:lw

ZAC.5/ZAC1

Pg. 1

RECEIVED
JUL 12 1993

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

ZADM

TO: Zoning Advisory Committee DATE: July 9, 1993

FROM: Jerry L. Pfeifer, Captain
Fire Department

SUBJECT: July 19, 1993 Meeting

- #473 - No comments
- #474 - No comments
- #475 - No comments
- #476 - No comments
- #477 - Building shall be built in compliance with the 1991 Life Safety Code.
- #1 - No comments
- #2 - No comments
- #3 - No comments
- #4 - No comments
- #5 - No comments
- #6 - A fire hydrant is required at the entrance to the site.
- Building shall be built in compliance with the 1991 Life Safety Code.
- #7 - No comments

JLP/dal

cc: File

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
N/S Old Padonia Rd., 350' W of : OF BALTIMORE COUNTY
C/L York Rd. (18 Old Padonia :
Rd.), 8th Election District, : Case No. 94-4-SPH
3rd Councilmanic District :
MAY C. BREWER, Petitioner :

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 22nd day of July, 1993,
a copy of the foregoing Entry of Appearance was mailed to May C. Brewer,
3 Roosevelt Street, Timonium, MD 21093, Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

May 10, 1993

To whom it may concern:

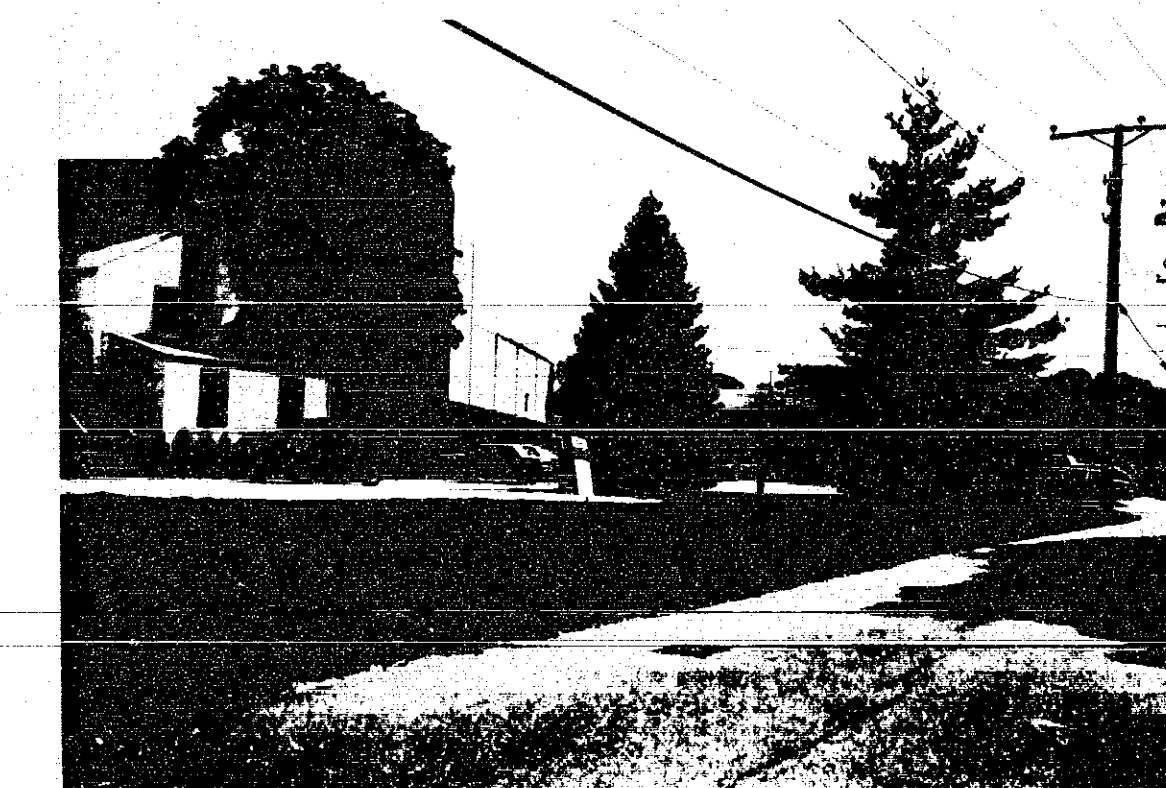
I, James K.S. Hom, owner of the properties of 20 and 22 Old Padonia Road, have no objections in using the property of 18 Old Padonia Road as an office building.

Sincerely,

James K.S. Hom
James K.S. Hom



LOOKING EAST TOWARDS YORK RD.



SUBJECT PROPERTY - N/S OLD PADONIA RD.



FRONT OF SUBJECT PROPERTY



EXISTING DRIVEWAY



LOOKING WEST - REAR OF FUNERAL HOME



LOOKING EAST REAR OF FUNERAL HOME



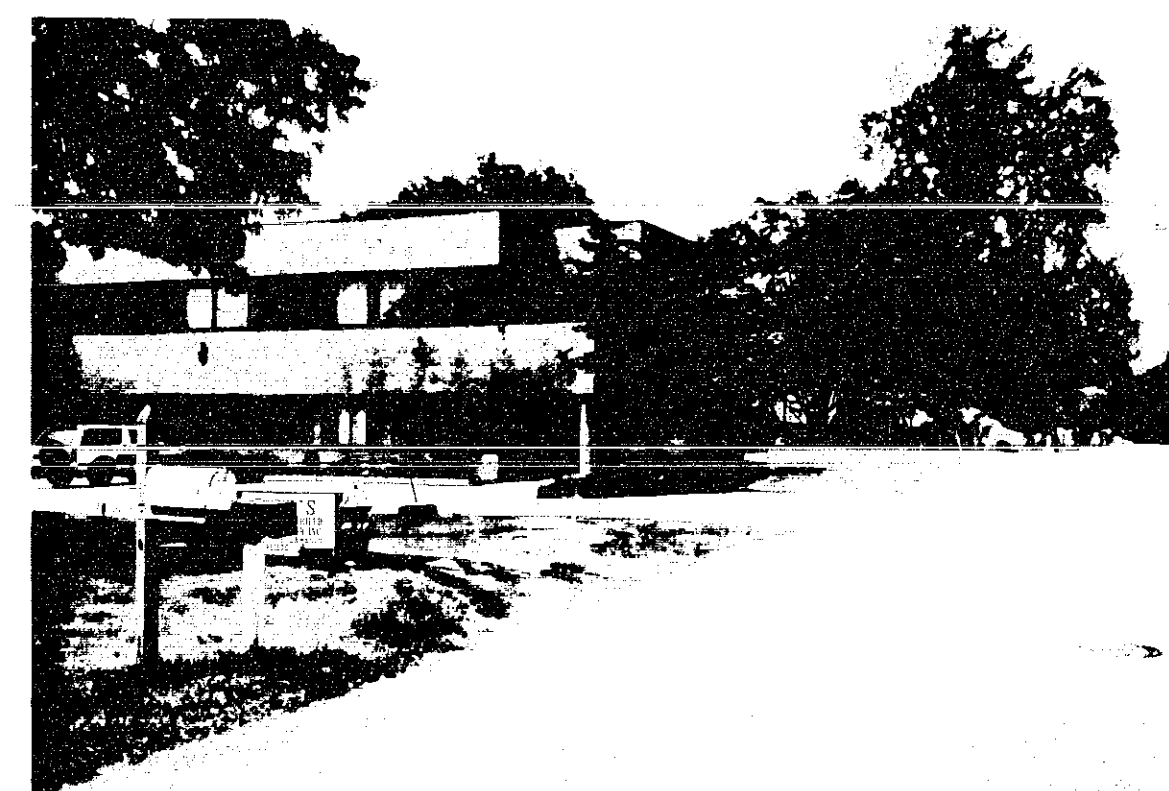
LOOKING WEST



#117 - NEW BUILDING w/CURBING



#201 - #203 HOUSE CONVERSIONS NO CURBING



#207 NEW BUILDING NO CURBING



#213 - #215 HOUSE CONVERSIONS NO CURBING



#106 NEW BUILDING w/CURBING



#110 NEW BUILDING w/CURBING



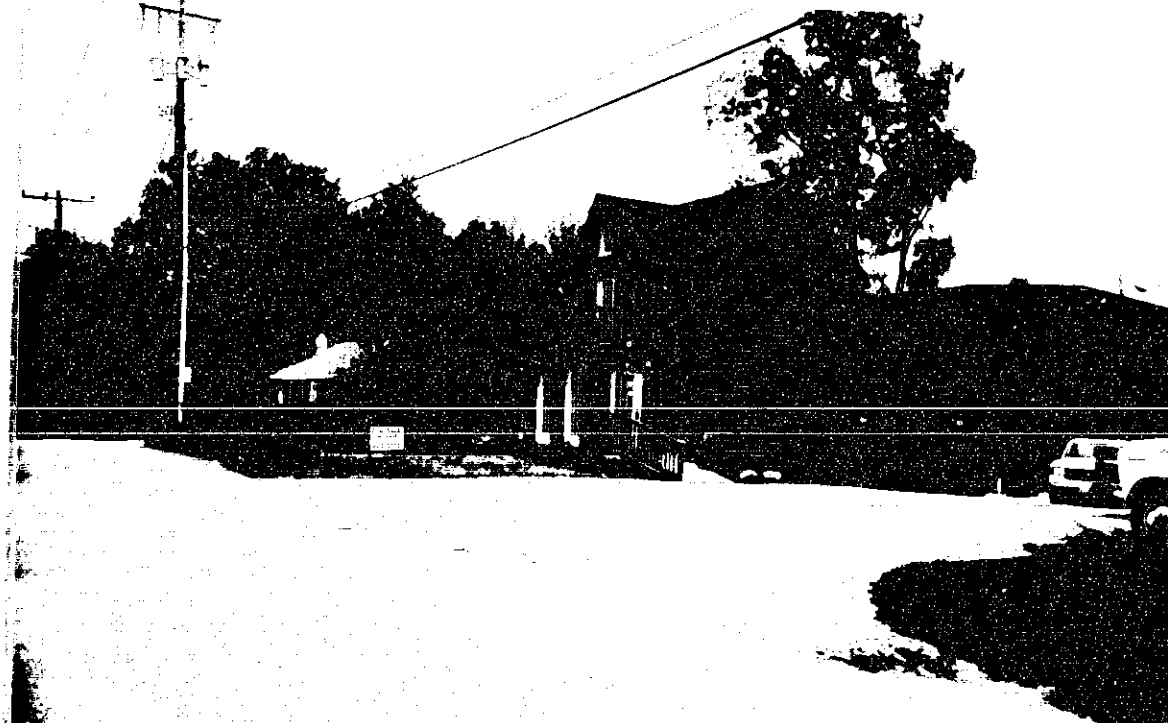
#116 NEW BUILDING w/CURBING



HOUSE CONVERSION NO CURBING



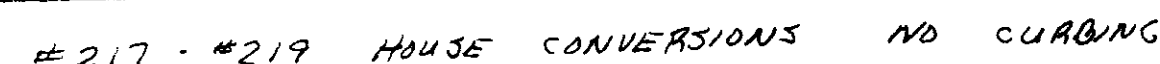
COMMERCIAL USE NO CURBING



#216 HOUSE CONVERSION NO CURBING



#217 - #219 HOUSE CONVERSIONS NO CURBING

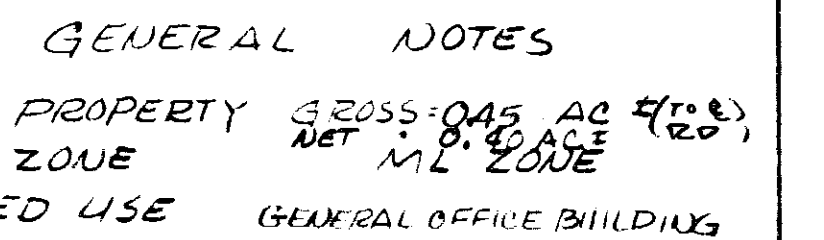


IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of August, 1969 that the Petition for Zoning Variance from Sections 255.1 to permit side yard setbacks of 8 feet for the existing garage, and from Section 218.2 for 13 feet and 19 feet, respectively, for the proposed office building, in lieu of the required 30 feet for all, and from Sections 102.2 and 238.1 for a front yard setback of 5 feet for the existing garage in lieu of the required 25 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; provided that the Petitioners are to hereby make their own assessment of the risk to their property from flooding at this time is at their own risk until such time as the County has been notified in writing that the flooding at this time is at their own risk from this Order, as expired. If, for whatever reason, the flooding is reversed, the Petitioners would be required to return, and be responsible for returning said property to its original condition.
- 2) The variance granted herein is limited to Petitioner and the conversion of the existing residence on the subject property to a single family residence, as set forth in Petitioner's Exhibit 1, for occupancy of the subject property.
- 3) There shall be no expansion of the proposed Class "A" office building. In the event the building is expanded or improved on the anterior, the property shall be in full compliance with the zoning regulations in effect at that time.
- 4) Compliance with the Office of Planning comments dated July 25, 1989 which require a CDM plan be submitted and approved by the County and approval by the Insurance of any permits; a landscape plan shall be submitted and approved by the Baltimore County Office of Landscaping Planner.
- 5) Prior to the issuance of any permit, a new site plan and a new and actual property location survey shall be submitted to this office for review and approval.
- 6) When applying for a building permit, the site plan shall be submitted and approved by the Baltimore County and set forth and address the restrictions of the zoning regulations.
- 7) Upon request and reasonable notice, Petitioners shall permit a representative of the Baltimore County Office of Planning to inspect the property and the property to insure that an inspection of the subject property is made.

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of January, 1990 that the Petition for a Zoning Variance from Section 409.4 (A) to permit a driveway 10 feet wide instead of the required 20 feet wide, in accordance with Petitioners' Exhibit I, be and is hereby GRANTED IN PART, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceedings at this time will not continue until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order covered, the Petitioners should respond to return, and be responsible for returning, said property to its original condition.
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2. The subject driveway shall be 16 feet in width from a point equal to the north edge of the existing stairs for the side porch to a point intersecting with the property line for old Federal Road.
3. A new hearing shall be required prior to the construction of any additions to the existing structure, the addition of access or the removal of seepage in use of the subject property in a manner other than that represented at the hearing of this case.
- "THE REQUEST IS GRANTED HEREIN IN FULL FOR THE PETITIONERS BUT NOT TO BE CONSIDERED AS AN ADJUDICATION OF ANY OTHER MATTER OR AS A WAIVER OF ANY RIGHTS OR REMEDIES AVAILABLE UNDER ANY APPLICABLE LAW."
- "THIS ORDER SHALL BE VALID AND EFFECTIVE FROM THE DATE OF SIGNATURE BY THE COURT CLERK AND SHALL BE RECORDED WITHIN TEN (10) DAYS OF THE DATE OF SIGNATURE BY THE COURT CLERK."
- "ALL NECESSARY CONSTRUCTION MATERIALS FOR EACH IMPROVEMENT, INCLUDING BUT NOT LIMITED TO, PERMITS, PLANS, ETC., SHALL BE PROVIDED BY THE PETITIONERS."



- 1) EXISTING PUBLIC SEWER & WATER
- 2) 3RD COUNCILMANIC DISTRICT
- 3) F.A.R. 1ST FLOOR 1620'±
2ND FLOOR 680'±
23'00'±
- 4) $0.44c^2 = 174242' / 2300' = 0.132$
FAR = 0.132
- 5) ZONING MAP NW 15A
- 6) NO SIGNS PROPOSED, ANY FUTURE SIGNS SHALL MEET ZONING REGULATIONS & APPROVAL
- 7) ANY FUTURE SIGNS 2004 STREET PARKING AREA SHALL BE SO ARRANGED AS TO REFLECT THE LIGHT ANY SIGN ADJACENT RESIDENTIAL SITES, & PUBLIC STREET

AREA OF BUILDING = 2300'²
 NO SPACES REQUIRED $3.3/1000' = 3.3 \times 2300 = 7.6$
 8 SPACES REQUIRED
 9 SPACES SHOWN
 (INCLUDING 2 HANDICAPPED)
 PARKING SPACES = 8' x 18'

PLAT TO ACCOMPANY APPLICATION
FOR SPECIAL HEARING

18 OLD PADONIA ROAD
PROPERTY OF
MAY C. BREWER

8TH ELECT. DIST BALTO. CO. MD.
SCALE: 1" = 50' MARCH 5, 1993
REV. JUNE 30, 1993

**PETITIONER'S
EXHIBIT 161**

OWNER:
MAY C BREWER
3 ROOSEVELT ST
TIMONIUM MD
21093

NOTE: OUTLINE SHOWN HERE ON
WAS PLOTTED FROM DEEDS, PLATS,
& OTHER SOURCES, & IS NOT A SURVEY